A partial list of the decisions made by the Board as arbitrator follows:

1. With regard to service quality, the Board concludes that the difference between the "equal to" standard applicable to interconnection and the "nondiscriminatory" standard applicable to access to network elements is limited to the incumbent's being allowed to provide network elements in an uncombined form;

2. In determining the modifications to the U S West's network that are necessary to accommodate interconnection and access to network elements, a liberal definition of "necessary" shall be used;

3. U S West's SPOT frame proposal to allow competitors to recombine network elements is rejected;

4. U S West is required to provide shared transport;

5. Interconnection and network elements must be provided consistent with national standards as they currently exist and as they evolve;

6. Access to operational support systems shall be via a real-time, mediated access electronic interface; and

7. In general, billing information shall be provided in an EDI 811 format until a national standard is adopted.

The modifications are effective upon issuance of the order and the agreement will be returned to the U. S. District Court to complete its review.

APPEARANCES

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PROCEDURAL BACKGROUND

On January 14, 1998, the United States District Court for the Southern District of Iowa issued its "Ruling Granting the Board and Board Members' Motion for a Limited Remand, and Order" in U S West v. Thoms, et al., Civil No. 4-97-CV-70082. The Court agreed with the Utilities Board (Board) that the decision in Iowa Utilities Board v. FCC, 120 F.3d 753 (8th Cir. 1997), as amended on rehearing on October 14, 1997, changed the law applicable to the interconnection agreements approved by the Board in Docket Nos. AIA-96-1 and AIA-96-2. The Court ordered a limited remand for the Board to apply the standards established in Iowa Utilities Board, as well as other applicable federal and state law standards, to the two interconnection agreements, which remain in effect during the pendency of the remand proceedings. With regard to identification of the specific agreement provisions to be remanded, the Court chose not to rule, directing the Board to "review the agreements, conduct any appropriate proceedings, and make any appropriate modifications." Pursuant to the Court's ruling, modifications to the agreements become effective upon the issuance of this final order on remand. The Court directed that the Board's final order must issue on or before May 15, 1998.

The Board established a remand procedure allowing the parties to identify the specific agreement provisions they believed to be affected by the Eighth Circuit Court decisions. The parties filed initial, responsive, and reply testimony and exhibits. Included with the filings of U S West Communications, Inc. (U S West),

AT&T Communications of the Midwest, Inc. (AT&T), and MCIMetro Access Transmission Services, Inc. (MCI), were matrices showing proposed changes to specific provisions of the agreements and listing the part of the Eighth Circuit Court's decisions cited for each change. AT&T filed a brief with its initial filing. In addition, prehearing briefs were filed by MCI and U S West.

A hearing was held from March 31 through April 7, 1998. The hearing consisted of two parts. First, the Board moderated interactive discussions by panels of expert witnesses on the subjects of combinations of network elements and superior service requirements, including the subtopic of access to operational support systems (OSS). This was followed by cross-examination of the witnesses who filed written testimony.

Initial briefs were filed by U S West, the Consumer Advocate Division of the Department of Justice (Consumer Advocate), and a joint brief by AT&T and MCI on April 17, 1998. Reply briefs were filed on April 24, 1998. In addition, MCI filed a statement regarding the U S West and AT&T matrices in which it indicated that some items of agreement between U S West and AT&T, not joined by MCI, may reflect non-Iowa negotiations to which MCI was not a party. Consumer Advocate participated in the cross-examination at hearing and filed briefs, but did not propose amendments to the agreements, file testimony, nor provide a participant in the panels.

In requesting this remand, the Board argued to the federal district court that the rates set in the initial arbitration were under consideration in a state law proceeding identified as Docket No. RPU-96-9 and, therefore, should not be considered in the remand. The remand has not included any rate issues. At the time of issuance of this decision, compliance tariffs have not been approved in the interconnection rate docket. However, a final order that will provide superseding rates was issued by the Board on April 23, 1998.

The agreements approved in Docket Nos. AIA-96-1 (U S West/AT&T) and AIA-96-2 (U S West/MCI) were identical. There will be a single final order in this remand and a single interconnection agreement attached. However, it is the Board's intention that AT&T and MCI each have a separate agreement with U S West. In the future, consistent with applicable law, either can modify its interconnection agreement through mutual agreement with U S West.

The District Court's remand order left the agreements in effect and made the Board's modifications effective upon the issuance of this order. The agreement language has been modified to reflect that ruling by the Court. The parties will not execute the agreement a second time.

In addition, MCI and AT&T have not yet purchased the interconnection, network elements, and services offered in the agreement to any significant extent. The Board does not believe that Congress intended the negotiation, arbitration, agreement review by the state commission, and court review provided in 47 U.S.C.

§ 252 to be purely academic exercises. For this arduous process to bear fruit, the agreement must have a term of reasonable length when the parties take under the agreement. For that reason, the Board has modified the term to expire on May 15, 2001.

On April 24, 1998, U S West filed a motion to file rebuttal evidence responding to AT&T and MCI allegations that U S West has not provided them with information regarding U S West's technical standards. MCI and AT&T filed resistances, motions to strike, and motions for sanctions on April 27 and 28, 1998. U S West resisted these motions on May 4, 1998.

ISSUES IDENTIFIED BY THE PARTIES

Most of the changes to the interconnection agreements proposed by U S West in this remand relate to a small number of general categories of issues. These include:

- removal of all requirements in the interconnection agreements for U S West to combine network elements;
- removal of all requirements for U S West to provide superior quality interconnection or access to unbundled network elements (UNEs);
- removal of requirements that U S West adopt business practices and procedures preferred by AT&T and MCI; and

- removal of technical requirements that U S West modify its network, when the modifications are not necessary for interconnection or access to unbundled elements.

Closely related to these broad categories of issues, U S West identified subissues relating to its single point of termination (SPOT) frame proposals, provision of shared transport, trunk forecasting, service quality standards and performance measures, performance credits, OSS, and billing format. In addition, U S West identified issues relating to dark fiber and vertical features as UNEs, the bona fide request process as it relates to technical feasibility, payment of construction costs, and the most favored nation provision.

MCI argued throughout the remand proceeding that only minimal changes to the agreements were necessitated by the Eighth Circuit Court's decisions. It proposed that express requirements that U S West provide superior services could be changed to the "at least equal" language of the Telecommuncations Act of 1996 (Act). With regard to combinations of UNEs, MCI proposed no changes. Instead, MCI urged the Board to join numerous other state commissions in finding state law grounds for reaching an outcome different from the Eighth Circuit Court's holdings vacating FCC rules that would have required ILECs to provide combinations of network elements.

In general, the matrices filed in the case show that AT&T has accepted more modifications to the agreements than MCI. However, the positions of AT&T and MCI

were sufficiently similar to allow them to file a joint post hearing brief. They argued that:

- Iowa law requires U S West to provide combinations of UNEs;
- state and federal law require shared transport;
- U S West has failed to prove any provisions in the agreements require superior service;
- many of U S West's proposals would create inferior access and service for competitive local exchange carriers (CLECs);
- U S West has a duty to provide dark fiber; and
- vertical features must be provided and priced as part of the switching element.

In addition to the general issues identified by the parties for the Board to determine, the matrices show more than 600 specific provisions in the agreements identified by the parties for changes. The bulk of these changes were proposed by U S West. AT&T, and to a lesser extent MCI, have agreed to some of these changes. Consistent with the expressed preference of the Act, the district court, and the Board for reaching mutual agreement regarding interconnection issues, the Board appreciates the efforts that led to these mutually acceptable changes.

The Board has reviewed the proposed changes to the agreements settled by AT&T and U S West, but not joined by MCI. The Board believes the provisions acceptable to AT&T and U S West are appropriate under state and federal law.

They are just, reasonable, and nondiscriminatory. The Board further believes the provisions settled by AT&T and U S West should be adopted in agreements applicable to both AT&T and MCI. The record in this proceeding does not provide sufficient evidence of differentiation between the competitive needs of AT&T and MCI to support different agreements. As discussed above, attached to this order is a single agreement that provides a starting point for both AT&T and MCI. However, in the future AT&T and MCI may individually reach agreements with U S West that, consistent with applicable law, would cause the agreements to diverge.

ANALYSIS AND CONCLUSIONS OF LAW ON COMBINATIONS AND SUPERIOR SERVICE

1. Combinations of Unbundled Network Elements

The Board continued to resist a federal district court remand after the initial decision in Iowa Utilities Board v. FCC. It was only after the Eighth Circuit Court's rehearing decision vacating a Federal Communications Commission (FCC) rule forbidding incumbent local exchange carriers (ILECs) from separating UNEs that are already combined, that the Board concluded the law had changed sufficiently to warrant a remand of the agreements. The Board recognized the importance of the Court's combinations holding and, in turn, the issues surrounding combinations of network elements have been a primary focus of these proceedings.

During this remand, AT&T and MCI have argued that state law provides sufficient support for provisions in the agreements requiring combinations of UNEs.

Although that approach is attractively procompetitive, the Board cannot agree because of the reasoning of the Eighth Circuit Court in its rehearing order. The Court stated:

> Section 251(c)(3) requires an incumbent LEC to provide access to the elements of its network only on an unbundled (as opposed to a combined) basis. Stated another way, § 251 (c)(3) does not permit a new entrant to purchase the incumbent LEC's assembled platform(s) of combined network elements (or any lesser existing combination of two or more elements) in order to offer competitive telecommunications services. To permit such an acquisition of already combined elements at cost based rates for unbundled access would obliterate the careful distinctions Congress has drawn in subsections 251(c)(3) and (4) between access to unbundled network elements on the one hand and the purchase at wholesale rates of and incumbent's telecommunications retail services for resale on the other....

(emphasis supplied), 120 F.3d at 813. Since passage of the Act in February of 1996, the Board has applied state law in the area of local exchange competition in ways that are consistent with the Act. While 47 U.S.C. § 252(e)(3) allows the Board to enforce "other requirements of state law" in its review of interconnection agreements, it is unclear whether that subsection is broad enough to authorize application of state law requirements that would "obliterate" an important part of the regulatory scheme in § 251. The rehearing order is a powerful statement by the Court that arbitrated agreements applying § 251 cannot force an ILEC to provide ILEC-combined UNEs, because to do so eliminates the UNE/resale distinction.

The Board's decision on combinations of UNEs might be more difficult if state law contained an explicit obligation for ILECs to provide combinations. IOWA CODE §§ 476.100 and 476.101 require ILECs to provide nondiscriminatory access to "unbundled essential facilities." Unbundled essential facilities are very similar to UNEs under the Act. However, beyond the nondiscrimination requirements, the Iowa statutes are silent on the issue of combinations. In the face of the Eighth Circuit Court's holdings, the Iowa statute does not provide a sufficient basis for requiring ILECs to offer CLECs combinations of UNEs.

However, the Eighth Circuit Court's decision did not and could not read nondiscrimination out of 47 U.S.C. § 251(c)(3). The Board's decision on combinations of UNEs will respect the Eight Circuit Court's holding, but it will also give full weight to the requirements in both state and federal law that access to UNEs must be on a nondiscriminatory basis. IOWA CODE § 476.100 provides in part:

> A local exchange carrier shall not do any of the following:
>
> 1...
>
> 2. Discriminate against another provider of communications services by refusing or delaying access to essential facilities on terms and conditions no less favorable than those the local exchange carrier provides to itself and its affiliates...
>
> 3. Degrade the quality of access or service provided to another provider of communications services.

The Board concludes this language, when read in conjunction with the Eighth Circuit Court's holding on combinations, establishes the following two-part principle: (1) the ILEC cannot be required to provide combined UNEs; but (2) any uncombined UNEs must be offered on terms and conditions that are, as near as possible given the fact they are uncombined, no less favorable than the ILEC provides to itself or any other party. That principle is consistent with the procompetitive policy goals of state and federal law.

In its analysis of this matter, U S West draws a distinction between the "at least equal in quality to that provided by the local exchange carrier to itself..." standard in the interconnection section, 47 U.S.C. § 251(c)(2), and the "nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory..." standard in 47 U.S.C. § 251(c)(3). The Board's conclusion in the preceding paragraph identifies the difference between these standards in light of the Eighth Circuit Court's combinations holding. The difference is that while the ILEC provides itself access on a combined basis to the facilities and functionalities that would be UNEs if purchased by a CLEC, the ILEC is only required to provide CLECs with access to UNEs on an uncombined basis, which is obviously not equal to what the ILEC provides to itself. Beyond that difference, the ILEC must provide access to UNEs equal in quality to the access it provides itself or any other party. If the ILEC is allowed to discourage purchase of UNEs by policies more onerous than

forcing the CLEC to recombine UNEs, the ILEC will have an effective tool to eliminate one method of competitive entry--CLEC purchase of UNEs. Congress intended purchase of UNEs to be one of the available methods for entry into the local exchange market. 120 F.3d at 811.

Another perspective concerning the appropriate analysis of the combinations issue is provided by the Eighth Circuit Court's reasoning in support of its holding. The Court stated:

> The FCC and its supporting intervenors argue that because the incumbent LECs maintain control over their networks it is necessary to force them to combine the network elements, and they believe that the incumbent LECs would prefer to do the combining themselves to prevent the competing carriers from interfering with their networks. Despite the Commission's arguments, the plain meaning of the Act indicates that the requesting carriers will combine the unbundled elements themselves; the Act does not require the incumbent LECs to do all of the work. Moreover, the fact that the incumbent LECs object to this rule indicates to us that they would rather allow entrants access to their networks than have to rebundle the unbundled elements for them.

(emphasis in original), 120 F.3d at 813. This statement shows the Court's understanding that if the ILEC requires the CLECs to recombine network elements, the ILEC must provide entrants access to ILEC networks to allow CLECs to recombine. This area is complicated by the need for network security, which all LECs and regulators must take seriously. The Board's decisions on recombining UNEs will take into consideration the Court's recognition of CLEC access to the ILEC network and the interests of all the parties and the public in network security.

Finally with regard to combinations of network elements, the Board notes that its initial arbitration decision, issued before the Court's decision, required U S West to provide combinations. The combinations decision is currently on appeal to the Supreme Court, and the Board has included language in the agreement that the combinations of network elements and recombining provisions are subject to revision if the Supreme Court overturns the Eighth Circuit Court on combinations.

2. Superior Quality Interconnection and Access to UNEs

The Board's procedural order on remand recognized that the superior quality issue was likely to be part of the proceeding. The Board stated:

> Claims by U S West under [the Eighth Circuit Court's superior service] holding must identify specific provisions of the agreement, must be supported by evidence clearly delineating the level of service quality U S West provides to itself with regard to the challenged provision, as well as evidence showing that the level of service quality required by the agreement provision is superior.

With these directions, the Board made it clear that it would not be sufficient for U S West to merely claim that a provision in the agreements requires superior service quality.

U S West's attempts near the end of the hearing and again with its motion to file rebuttal evidence that would introduce into the record what is proported to be U S West's technical standards were untimely and must be denied. This was the type of information required by the procedural order to be filed with U S West's prefiled testimony if U S West wanted it to be considered. The affidavit supporting the

motion to file rebuttal evidence shows this information was available when U S West filed its testimony.

On a related matter, the Board's decisions relating to superior quality will be based upon the evidence of superiority provided by the parties in these proceedings and will not rely on assertions by the CLECs that U S West has refused to provide information concerning U S West's standards to them outside these proceedings. The affidavit and attachments to the motion to file rebuttal evidence filed on April 24, 1998, will not be admitted into the evidentiary record. Under the Board's procedural order, most, if not all, of this information was untimely. Furthermore, under the Board's analysis of the superior quality issue, the rebuttal evidence is not in response to CLEC evidence material to the Board's decisions. U S West's motion will be denied. AT&T and MCI motions to strike will be granted. The motions for sanctions will be denied. U S West stated sufficient grounds to justify raising the issue to the Board.

Some of U S West's proposed changes to the agreement appear to be based upon the notion that "superior" and "different" are synonyms. The words are not synonyms and U S West cannot show required interconnection and access to UNEs is superior merely by claiming it is different from the service U S West provides to itself. In this regard it is instructive to look at the Eighth Circuit Court's language: "...subsection 251(c)(3) implicitly requires unbundled access only to the incumbent LEC's *existing* network--not to a yet unbuilt superior one." 120 F.3rd at 813. U S

West unnecessarily and anticompetitively extends the scope of this prescription when it suggests, for example, that CLECs may not be allowed to use the full functionality of U S West's switches, because U S West may not be using the full functionality. (Tr. 1176, 1232). The Court's language is limited to the point that ILECs cannot be required to construct new network facilities for CLECs. It does not mean that an ILEC can deny CLECs the full functionality of the ILEC's existing physical network. In addition, for the agreements to remain just, reasonable, and nondiscriminatory, in the future the ILEC must continue to provide the full functionality of the network as it evolves. The Board has included these conclusions in the agreements.

Similarly, U S West appears to read too much into the Eighth Circuit Court's statement that the nondiscriminatory provision in 47 U.S.C. § 251(c)(3) "does not mandate that incumbent LECs cater to every desire of every requesting carrier." 120 F.3d at 813. The Court did not say the ILEC could deny every request of every CLEC. In fact, in footnote 33, the Court made it clear that the ILECs must modify their "facilities to the extent necessary to accommodate interconnection or access to network elements." *Id.* The Board has incorporated that concept into the agreement as well. In addition, the Board notes that the courts have in appropriate circumstances used a liberal definition of "necessary" to mean "convenient, or useful" and not the more narrow definition of "indispensable." 120 F. 3d at 811. The

Board concludes that the procompetitive policies expressed in both state and federal law fully justify the use of the liberal definition of "necessary" in this context.

Regarding another aspect of U S West's superior quality argument, the Board continues to believe that industry-wide technical standards have an important role to play in the development of broadly based local exchange competition. In an environment of multiple CLECs, in many instances, such standards are necessary to accommodate efficient interconnection and access to UNEs. It was helpful in this remand when AT&T agreed to withdraw references to AT&T's technical standards from the agreements. MCI also agreed to this change. That development generally left only industry-wide technical standards in the agreements. U S West's timely filed testimony has not made a persuasive factual case for the removal of these industry-wide technical standards on the grounds that they are superior to the quality of interconnection and access to network elements that U S West provides to itself. The technical standards in the agreements will be retained. However, the Board has followed the Eighth Circuit Court's superior quality holding by inserting at appropriate places in the agreement the limitation that certain technical standards will be met consistent with ILEC facilities as they evolve. In other instances, the technical standards are not so limited, because the Board determined that meeting those particular standards was necessary to accommodate interconnection or access to network elements.

ANALYSIS

Obviously, it is not possible for the Board in this order to discuss the hundreds of specific provisions in the interconnection agreements where the parties have proposed changes. Instead, the Board has explained its decisions on the general issues raised by the parties in this remand. The Board's specific changes to the agreements are included in a final version attached, and incorporated by reference, to this decision as attachment 1. A red-lined version showing the changes will be supplied to the parties and filed with the Court. The Board believes the specific language selected is consistent with its decisions on the general issues. Where a proposed change was not made, the Board found the change to be unwarranted by applicable state and federal law and was not supported by the evidence in the record. In this order, the Board has fulfilled the mandate of the federal district court to review the agreements, conduct appropriate proceedings, and make appropriate modifications. The attached agreement reflects current state and federal law on interconnection between competitors in the local exchange market.

A discussion of the issues raised by the parties follows:

1. Generic or Global Language

The parties disagreed about the extent of the role of generic or global language for conforming the agreements to the Eighth Circuit Court's decisions. The CLECs, particularly MCI, saw generic language as sufficient to make the agreements

fully lawful. U S West not only proposed generic language, but also proposed hundreds of specific changes. The Board has reviewed the entire agreements and conformed them to currently-applicable law. The changes are to specific provisions, as well as providing generic or global language. The generic language addresses topics such as the meaning of superior quality, nondiscriminatory access to UNEs, industry wide technical standards in the agreements change as the standards evolve, combinations of UNEs can be requested, but U S West is not required to provide them, and the agreements are subject to changes in applicable state and federal law, including changes resulting from the Supreme Court's review of the Eighth Circuit Court's decisions.

2. SPOT Frame Proposal

U S West's single point of termination (SPOT) frame proposal is a means to accomplish the separation and recombining of UNEs. (Tr. 197). An ILEC can require a CLEC to recombine UNEs under the Eighth Circuit Court's decision. The Board believes there is ample evidence in the record that the SPOT frame approach is inefficient, expensive, inconsistent with network security, and provides discriminatory access to UNEs. (Tr. 204-05, 1913-15, 1923-29, 1972). For these reasons, the Board will reject all U S West-proposed SPOT frame references in the agreements.

As discussed above, the Board does not conclude that state law mandates combinations of UNEs contrary to the Eighth Circuit Court's decision. The Court's decision will be implemented in the agreements, not by the SPOT frame proposal, but rather by provisions that allow U S West to choose from the list of five options primarily developed in AT&T's testimony. (Tr. 201-04, 1911-13). U S West may: (1) leave two or more UNEs combined; (2) use "recent change" software that will accomplish the recombining somewhat like an on/off switch, where possible; (3) allow the CLEC to use U S West technicians to recombine elements at a price; (4) allow use of third-party technicians to recombine elements; and (5) permit CLEC technicians to access the U S West frames and other parts of the U S West network. Under the terms of the agreement, U S West will be given a time period to make selections from that list regarding recombining UNEs. Once U S West's selections of recombining methods are made, any changes in method will require mutual consent of the parties.

This approach is consistent with the statement in the Eighth Circuit Court's decision quoted above that the ILECs preferred to allow CLECs access to their networks, rather than leaving the UNEs combined or doing the recombining themselves. By giving U S West a choice of methods, U S West can weigh the security implications with regard to each UNE and choose the most appropriate method to preserve network security. The Board's decision gives U S West the ability to require physical separation and recombining if it chooses to require the

CLECs to complete that process. This decision complies with the letter and spirit of the Eighth Circuit Court's decision. The Board's findings with regard to the SPOT frame indicate that the SPOT frame was likely to seriously limit the practical availability of the UNE method of entry. On the other hand, the Board's approach leaves some vitality in the UNE method of entry.

3. Shared Transport

U S West claims that the use of shared transport for interoffice traffic violates the Eighth Circuit Court's decision that the ILEC cannot be required to provide UNEs on a combined basis. U S West claims shared transport requires the provision of combined switching and interoffice transport UNEs. (Tr. 1196). U S West would require the CLECs to purchase switching and only dedicated, not shared, interoffice transport as separate UNEs.

The Board recently required U S West to provide shared transport as a UNE in Docket No. RPU-96-9, "Final Decision and Order," issued April 23, 1998, pp. 42-44. The Board's decision was based upon the FCC's determination in 47 C.F.R. § 51.319(d) that shared transport must be provided as a UNE. The Eighth Circuit Court refused to stay that FCC determination, which is currently on appeal to that Court. Consistent with the Docket No. RPU-96-9 order, the agreements will not be modified to remove the requirement that U S West provide shared transport as defined in 47 C.F.R. § 51.319(d)(1)(ii). Agreement provisions relating to shared

transport are subject to revision if the Eighth Circuit Court vacates the FCC rules requiring ILECs to provide shared transport as a UNE.

4. Trunk Forecasting

The trunk forecasting issue is closely tied to the shared transport issue. U S West argued that the CLECs must provide trunk forecasts so U S West will be able to plan for an adequate number of trunks to meet the CLECs' combined needs. (Tr. 1281-82, 1304-05). When the CLECs are allowed to share transport with U S West, U S West generally will have the information about usage necessary to forecast the needs for additional transport facilities.

The Board believes when U S West must do the transport network planning, it is in all carriers' and customers' best interests to require the CLECs to provide any information to U S West they may have about significant future variations in usage. (Tr. 1281-82). The information can be provided on a proprietary basis for network engineering purposes only.

5. Service Quality Standards and Performance Measures

In the face of the Board's procedural order requiring U S West to support any claims of superior quality with evidence of its own quality standards, U S West was not forthcoming with its own service quality standards until the case was nearly completed. As discussed above, it would be inappropriate and unfair to the other parties to grant U S West's motion to file rebuttal evidence after the hearing.

In general, the Board believes U S West has failed to show that the service quality standards and performance standards in the agreements require superior service. The superior quality issue is handled in the agreements by generic statements that require U S West to provide interconnection and services for resale equal to the quality it provides to itself or any other party, or, if higher, the requirements of Board or FCC rules. Generic statements also require access to UNEs to be as close as possible to the quality of access U S West provides to itself and to any others, given that U S West is allowed to provide separated UNEs. The Board has eliminated specific provisions shown by record evidence to be inconsistent with the generic statements.

Contrary to the suggestions of U S West, the Board believes it is essential that the quality standards and performance measures remain in the agreement. The CLECs as purchasers of interconnection and UNEs and, as providers who collocate with U S West, are entitled to a clear statement in the agreements of the quality of service they are buying. As discussed in the performance credits portion below, CLECs should not have to pay the full price for service below the level of quality spelled out in the agreements.

6. Technical Standards

For the interconnection of competitors to be accomplished efficiently, national standards are necessary in many technical areas. (Tr. 1941). When AT&T agreed to remove references to its technical standards from the agreements (Tr. 2001) and

MCI agreed to the change, they made the technical standards issue more manageable for the Board. Generally, that change leaves standards produced by national standards bodies, which the Board will leave in the agreements. U S West's testimony in the record was inadequate to show specific instances where the national standards in the agreements are superior to the service quality currently provided by U S West to itself and its end-users.

The Board believes it is important to include a generic statement in the agreement to make all references to national standards subject to subsequently approved changes in those standards. The agreements must not be drafted so as to create a contract impediment to timely implementation of the latest technologies. Compliance with current national technical standards will further the goals of increasing the network's efficiency and functionality in a competitive environment. (Tr. 1941).

U S West also raised a number of subissues concerning items it claimed were network modifications that are not necessary for interconnection and access to unbundled network elements. *See* 120 F.3d at 813, n. 33. Examples are, switched fractionalized DS1 service, augmenting copper facilities, loop back devices, link diversity, analog-to-digital conversion, and attenuation distortion. U S West would delete these items from the agreements. In general, the Board believes U S West has used an overly narrow definition of "necessary" in producing this list. As discussed earlier, the Board believes "necessary" to accommodate interconnection